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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 130123063-3063-01]

RIN 0648-BC75

Pacific Halibut Fisheries; Catch Sharing Plan

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule.

SUMMARY: NMFS proposes to approve and implement changes to the Pacific Halibut Catch Sharing Plan (Plan) for the International Pacific Halibut Commission's (IPHC or Commission) regulatory area off Washington, Oregon, and California (Area 2A). NMFS proposes to implement the portions of the Plan and management measures that are not implemented through the IPHC. These measures include the sport fishery allocations and management measures for Area 2A. These actions are intended to enhance the conservation of Pacific halibut, provide greater angler opportunity where available, and protect overfished groundfish species from being incidentally caught in the halibut fisheries.

DATES: Comments on the proposed changes to the Plan and on the proposed domestic Area 2A halibut management measures must be received on [insert date 15 days after publication in the Federal Register].

ADDRESSES: You may submit comments on this document, identified by NOAA-NMFS-2013-0015, by any of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2013-0015, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments
- **Mail:** Submit written comments to William Stelle, Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE., Seattle, WA 98115-0070.
- **Fax:** 206-526-6736; Attn: Sarah Williams

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Sarah Williams, phone: 206-526-4646, fax: 206-526-6736, or e-mail: sarah.williams@noaa.gov

SUPPLEMENTARY INFORMATION:

Electronic Access

This rule is accessible via the Internet at the Office of the Federal Register Web site at

[http:// www.access.gpo.gov/su_docs/aces/aces140.html](http://www.access.gpo.gov/su_docs/aces/aces140.html). Background information and documents are available at the NMFS Northwest Region Web site at <http://www.nwr.noaa.gov/Groundfish-Halibut/Groundfish-Fishery-Management/index.cfm> and at the Council's Web site at <http://www.pcouncil.org>.

Background

The Northern Pacific Halibut Act (Halibut Act) of 1982, 16 U.S.C. §§ 773-773K, gives the Secretary of Commerce (Secretary) general responsibility for implementing the provisions of the Halibut Convention between the United States and Canada (Halibut Convention) (16 U.S.C. § 773c). It requires the Secretary to adopt regulations as may be necessary to carry out the purposes and objectives of the Halibut Convention and the Halibut Act. Section 773c of the Halibut Act also authorizes the regional fishery management councils to develop regulations in addition to, but not in conflict with, regulations of the IPHC to govern the Pacific halibut catch in their corresponding U.S. Convention waters. Each year between 1988 and 1995, the Pacific Fishery Management Council (Council) developed a catch sharing plan in accordance with the Halibut Act to allocate the total allowable catch (TAC) of Pacific halibut between treaty Indian and non-treaty harvesters and among non-treaty commercial and sport fisheries in Area 2A.

In 1995, NMFS implemented the long-term Plan recommended by the Pacific Council (60 FR 14651, March 20, 1995, as amended by 61 FR 35548). In each of the intervening years between 1995 and the present, minor revisions to the Plan have been made to adjust for the changing needs of the fisheries, in accordance with 50 CFR 300.62. These revisions are not codified. The Plan allocates 35 percent of the Area 2A Pacific halibut TAC to Washington treaty Indian tribes in Subarea 2A-1, and 65 percent of the Area 2A TAC to non-tribal fisheries.

The TAC allocation to non-tribal fisheries is divided into three shares, with the Washington sport fishery (north of the Columbia River) receiving 36.6 percent, the

Oregon/California sport fishery receiving 31.7 percent, and the commercial fishery receiving 31.7 percent. The commercial fishery is further divided into a directed commercial fishery that is allocated 85 percent of the commercial allocation of Pacific halibut TAC, and an incidental catch in the salmon troll fishery that is allocated 15 percent of the commercial allocation. The directed commercial fishery in Area 2A is confined to southern Washington (south of 46°53.30' N. lat.), Oregon, and California. North of 46°53.30' N. lat. (Pt. Chehalis), the Plan allows for incidental halibut retention in the sablefish primary fishery when the overall Area 2A TAC is above 900,000 lb (408.2 mt). The Plan also divides the sport fisheries into six geographic subareas, each with separate allocations, seasons, and bag limits.

This proposed rule describes catch limit information presented at the IPHC's annual meeting which occurred January 21-25, 2013, in Victoria, BC. The IPHC has set the 2013 Area 2A TAC at 990,000 pounds.

Incidental Halibut Retention in the Sablefish Primary Fishery North of Pt. Chehalis, Washington

The Plan provides that incidental halibut retention in the sablefish primary fishery north of Pt. Chehalis, Washington, will be allowed when the Area 2A TAC is greater than 900,000 lb (408.2 mt), provided that a minimum of 10,000 lb (4.5 mt) is available above a Washington recreational TAC of 214,100 lb (97.1 mt). In 2013, the TAC is 990,000 lb (449 mt); therefore incidental halibut retention will be allowed in this fishery. The Council will recommend landing restrictions for public review at its March 2013 meeting and make final recommendations at its April 2013 meeting. Following this meeting NMFS will publish the restrictions in the Federal Register.

Through this proposed rule, NMFS requests public comments on the Pacific Council's recommended modifications to the Plan and the resulting proposed domestic fishing regulations

by [insert date of end of comment period]. The States of Washington and Oregon will conduct public workshops shortly to obtain input on the sport season dates. Following the proposed rule comment period NMFS will review public comments and comments from the states, and issue a final rule for Areas 2A, 2C, 3A, 3B, 4A, 4B, 4C, 4D, and 4E. This final rule will also contain the IPHC regulations for the 2013 Pacific halibut fisheries. This proposed rule provides for a 15-day public comment period, which will allow NMFS time to incorporate the final U.S. domestic regulations into the IPHC regulations in order to have the combined regulations in place as close to March 1 as possible. The regulations need to be in effect in early March because the fishing season begins in mid-March. The 2013 commercial season starting date(s) need to be published soon after the IPHC meeting in January 2013 to notify the public of that date so the industry can plan for the season.

Publishing the IPHC regulations in the same federal register notice with the final domestic regulations for Washington, Oregon, and California is in the best interest of the public because it results in the occurrence of all the halibut regulations in one Federal Register notice. Therefore fishery participants only have to reference one document for all Pacific halibut regulations applicable to the Area 2A fishery; both the IPHC regulations and domestic regulations. Combining these regulations also eliminates errors that may occur from trying to separate the halibut regulations into two different rules.

Proposed Changes to the Plan

Each year, the Washington Department of Fish and Wildlife (WDFW), Oregon Department of Fish and Wildlife (ODFW), California Department of Fish and Game (CDFG), and the tribes with treaty fishing rights for halibut consider whether changes to the Plan are needed or desired by their fishery participants. In 2012, fishery managers from WDFW and

ODFW held public meetings before both the September and November Pacific Council meetings to get public input on revisions to the Plan. At the September 2012 Pacific Council meeting, WDFW, ODFW, and CDFG recommended changes to the Plan, while NMFS and the tribes did not recommend any changes to the Plan for the 2013 fishing season. Following the meeting, WDFW and ODFW again reviewed their proposals with the public and drafted their recommended revisions for review and recommendation by the Pacific Council.

At its November 2-7, 2012, meeting the Pacific Council considered the results of state-sponsored workshops on the proposed changes to the Plan, and made its final recommendations for modifications to the Plan. The following are the Council's proposed changes to the Plan:

1. In the Plan, sections (e)(1) and (e)(1)(iii), incidental halibut catch in the salmon troll fishery, adjust the months for the incidental take fishery from May-June to April-June. The goal of this change is to allow salmon fishers access to the incidental halibut allocation earlier in the year.
2. In the Plan, section (f)(1)(iv) Columbia River subarea, adjust the spring season schedule from Thursday-Saturdays to Fridays-Sundays and replace the automatic regulatory closure for the spring fishery with a closure that would occur upon reaching 80 percent of the subarea allocation. The goal of the days of the week change is to allow better access to the spring fishery and to make the spring and summer season open days consistent. The goal of removing the regulatory closure is to allow the spring fishery to stay open longer in the spring, when effort is generally higher. The summer season has often underutilized the allocation, therefore allowing the spring fishery to stay open longer is designed to better utilize the allocation for the whole subarea. Since 2008 the summer fishery has harvested less than 20 percent of the subarea quota even though the allocation

was 30 percent, leaving a portion of the allocation unharvested that could be harvested in the spring since the summer fishery occurs after the spring fishery.

3. In the Plan, section (f)(1)(v), Oregon Central Coast subarea, several changes are proposed. This subarea consists of three fisheries, nearshore, spring and, summer. Changes are proposed to all three fisheries. The goal is to better align the allocations for the nearshore and spring fisheries with recent increasing effort. The proposed modifications to each fishery's allocation changes the allocations from fixed percentages to percentages that depend on the 2A TAC. This change is proposed to maximize the number of days the entire subarea can be open. The effort in the nearshore fishery has increased in recent years, requiring the fishery to close early. Eliminating the summer fishery and increasing the nearshore and spring allocations will allow more fishing days overall. The elimination of the summer fishery when the Area 2A TAC is below 700,000 lbs is necessary because if the TAC is at that level, the resulting summer fishery allocation is not enough to allow one day of fishing.
 - a. For the nearshore fishery, adjust the open days from daily to 3 days per week Thursday –Saturday and adjust the allocation to this fishery from 12 percent of the subarea quota to 12 percent of the subarea quota if the 2A TAC is above 700,000 lbs or greater and 25 percent of the subarea quota if the 2A TAC is less than 700,000 lbs.
 - b. For the spring fishery, adjust the allocation from 63 percent of the subarea allocation to 63 percent of the subarea quota if the 2A TAC is above 700,000 lbs or greater and 75 percent of the subarea quota if the 2A TAC is less than 700,000

lbs. Also, adjust the closure date for this fishery if the TAC is less than 700,000 lbs from July 31st to October 31st or attainment of the fishery allocation.

- c. For the summer fishery, adjust the allocation from 25 percent of the subarea allocation to 25 percent of the subarea quota if the 2A TAC is above 700,000 lbs or greater and 0 percent of the subarea quota if the 2A TAC is less than 700,000 lbs. This closes the summer fishery if the TAC is less than 700,000 lbs.

NMFS proposes to approve the Pacific Council recommendations and to implement the changes described above. A version of the Plan including these changes can be found at <http://www.nwr.noaa.gov/Groundfish-Halibut/Pacific-Halibut/Index.cfm>.

Proposed 2013 Sport Fishery Management Measures

In this rulemaking, NMFS also proposes sport fishery management measures that are necessary to implement the Plan in 2013. The annual domestic management measures are published each year through a final rule in combination with the IPHC regulations, as discussed above. For the 2012 fishing season the final rule was published on March 22, 2012 (77 FR 16740), and the following section numbers refer to sections within that final rule. The final 2013 TAC for Area 2A has been determined by the IPHC in the amount of 990,000 lbs. Where season dates are not indicated, those dates will be provided in the final rule, following consideration of the 2013 TAC and consultation with the states and the public.

In Section 8 of the annual domestic management measures, "Fishing Periods," paragraphs (2) and (3) are proposed to read as follows and paragraph (6) is added to read as follows:

(1) * * *

(2) Each fishing period in the Area 2A directed fishery shall begin at 0800 hours and terminate at 1800 hours local time on (insert season dates) unless the Commission specifies otherwise.

(3) Notwithstanding paragraph (2), and paragraph (7) of section 11, an incidental catch fishery is authorized during salmon troll seasons in Area 2A in accordance with regulations promulgated by NMFS. This fishery will occur between 1200 hours local time on (insert date) and 1200 hours local time on (insert season date).

(4) * * *

(5) * * *

(6) Notwithstanding paragraph (7) of section 11, an incidental catch fishery is authorized during the sablefish primary fishery in Area 2A in accordance with regulations promulgated by NMFS.

In section 26 of the annual domestic management measures, “Sport Fishing for Halibut,” paragraph 1(a)-(b) will be updated with 2012 total allowable catch limits in the final rule. In section 26 of the annual domestic management measures, “Sport Fishing for Halibut” paragraph (8) is proposed to read as follows:

(8) * * *

(a) The area in Puget Sound and the U.S. waters in the Strait of Juan de Fuca, east of a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat., 124°23.70' W. long., is not managed in-season relative to its quota. This area is managed by setting a season that is projected to result in a catch of 57,393 lbs (26 mt).

(i) The fishing season in eastern Puget Sound (east of 123°49.50' W. long., Low Point) is (insert season dates), and the fishing season in western Puget Sound (west of 123°49.50' W. long., Low Point) is (insert season dates), 5 days a week (Thursday through Monday).

(ii) The daily bag limit is one halibut of any size per day per person.

(b) The quota for landings into ports in the area off the north Washington coast, west of the line described in paragraph (2)(a) of section 26 and north of the Queets River (47°31.70' N. lat.), is (See Table 1 for range).

(i) The fishing seasons are:

(A) Commencing on May 9 and continuing 2 days a week (Thursday and Saturday) until 108,030 lbs (49 mt) are estimated to have been taken and the season is closed by the Commission or until May 25.

(B) If sufficient quota remains the fishery will reopen on June 6 in the entire north coast subarea, continuing 2 days per week (Thursday and Saturday) until there is not sufficient quota for another full day of fishing and the area is closed by the Commission. When there is insufficient quota remaining to reopen the entire north coast subarea for another day, then the nearshore areas described below will reopen for 2 days per week (Thursday and Saturday), until the overall quota of 108,030 lbs (49 mt) is estimated to have been taken and the area is closed by the Commission, or until September 30, whichever is earlier. After May 25, any fishery opening will be announced on the NMFS hotline at 800-662-9825. No halibut fishing will be allowed after May 25 unless the date is announced on the NMFS hotline. The nearshore areas for Washington's North Coast fishery are defined as follows:

(1) WDFW Marine Catch Area 4B, which is all waters west of the Sekiu River mouth, as defined by a line extending from 48°17.30' N. lat., 124°23.70' W. long. north to 48°24.10' N. lat.,

124°23.70' W. long., to the Bonilla-Tatoosh line, as defined by a line connecting the light on Tatoosh Island, WA, with the light on Bonilla Point on Vancouver Island, British Columbia (at 48°35.73' N. lat., 124°43.00' W. long.) south of the International Boundary between the U.S. and Canada (at 48°29.62' N. lat., 124°43.55' W. long.), and north of the point where that line intersects with the boundary of the U.S. territorial sea.

(2) Shoreward of the recreational halibut 30-fm boundary line, a modified line approximating the 30-fm depth contour from the Bonilla-Tatoosh line south to the Queets River. The 30-fm depth contour is defined in groundfish regulations at 50 CFR 660.71(e).

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Recreational fishing for groundfish and halibut is prohibited within the North Coast Recreational Yelloweye Rockfish Conservation Area (YRCA). It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the North Coast Recreational YRCA. A vessel fishing in the North Coast Recreational YRCA may not be in possession of any halibut. Recreational vessels may transit through the North Coast Recreational YRCA with or without halibut on board. The North Coast Recreational YRCA is a C-shaped area off the northern Washington coast intended to protect yelloweye rockfish. The North Coast Recreational YRCA is defined in groundfish regulations at §660.70(a).

(c) The quota for landings into ports in the area between the Queets River, WA (47°31.70' N. lat.) and Leadbetter Point, WA (46°38.17' N. lat.), is 42,739 lbs (19.3 mt).

(i) This subarea is divided between the all-waters fishery (the Washington South coast primary fishery), and the incidental nearshore fishery in the area from 47°31.70' N. lat. south to 46°58.00' N. lat. and east of a boundary line approximating the 30 fm depth contour. This area is

defined by straight lines connecting all of the following points in the order stated as described by the following coordinates (the Washington South coast, northern nearshore area):

(1)47°31.70' N.lat, 124°37.03' W. long;

(2)47°25.67' N. lat, 124°34.79' W. long;

(3)47°12.82' N. lat, 124°29.12' W. long;

(4)46°58.00' N. lat, 124°24.24' W. long.

The south coast subarea quota will be allocated as follows: 40,739 lbs (18.4 mt) for the primary fishery and 2,000 lb (0.9 mt) for the nearshore fishery. The primary fishery commences on May 5 and continues 2 days a week (Sunday and Tuesday) until May 21. If the primary quota is projected to be obtained sooner than expected the management closure may occur earlier. Beginning on June 2 the primary fishery will be open 2 days per week (Sunday and/or Tuesday) until the quota for the south coast subarea primary fishery is taken and the season is closed by the Commission, or until September 30, whichever is earlier. The fishing season in the nearshore area commences on May 5 and continues seven days per week. Subsequent to closure of the primary fishery the nearshore fishery is open seven days per week, until 42,739 lbs (19.3 mt) is projected to be taken by the two fisheries combined and the fishery is closed by the Commission or September 30, whichever is earlier. If the fishery is closed prior to September 30, and there is insufficient quota remaining to reopen the northern nearshore area for another fishing day, then any remaining quota may be transferred in-season to another Washington coastal subarea by NMFS via an update to the recreational halibut hotline.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Seaward of the boundary line approximating the 30-fm depth contour and during days open to the primary fishery, lingcod may be taken, retained and possessed when allowed by groundfish regulations at 50 CFR 660.360, Subpart G.

(iv) Recreational fishing for groundfish and halibut is prohibited within the South Coast Recreational YRCA and Westport Offshore YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the South Coast Recreational YRCA and Westport Offshore YRCA. A vessel fishing in the South Coast Recreational YRCA and/or Westport Offshore YRCA may not be in possession of any halibut. Recreational vessels may transit through the South Coast Recreational YRCA and Westport Offshore YRCA with or without halibut on board. The South Coast Recreational YRCA and Westport Offshore YRCA are areas off the southern Washington coast established to protect yelloweye rockfish. The South Coast Recreational YRCA is defined at 50 CFR §660.70(d). The Westport Offshore YRCA is defined at 50 CFR §660.70(e).

(d) The quota for landings into ports in the area between Leadbetter Point, WA (46°38.17' N. lat.) and Cape Falcon, OR (45°46.00' N. lat.), is 11,895 lbs (5.39 mt).

(i) The fishing season commences on May 3, and continues 3 days a week (Friday through Sunday) until 9,516 lbs (4.3 mt) are estimated to have been taken and the season is closed by the Commission or until 11,895 lbs (5.39 mt) has been taken and the season is closed by the Commission, or until September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred in-season to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution.

(ii) The daily bag limit is one halibut of any size per day per person.

(iii) Pacific Coast groundfish may not be taken and retained, possessed or landed, except sablefish and Pacific cod when allowed by Pacific Coast groundfish regulations, when halibut are on board the vessel.

(e) The quota for landings into ports in the area off Oregon between Cape Falcon (45°46.00' N. lat.) and Humbug Mountain (42°40.50' N. lat.), is 191,979 lbs (87.8 mt).

(i) The fishing seasons are:

(A) The first season (the “inside 40-fm” fishery) commences May 2 and continues 3 days a week (Thursday through Saturday) through October 31, in the area shoreward of a boundary line approximating the 40-fm (73-m) depth contour, or until the sub-quota for the central Oregon “inside 40-fm” fishery 23,038 lbs (10.4 mt) or any in-season revised subquota is estimated to have been taken and the season is closed by the Commission, whichever is earlier. The boundary line approximating the 40-fm (73-m) depth contour between 45°46.00' N. lat. and 42°40.50' N. lat. is defined at § 660.71(k).

(B) The second season (spring season), which is for the “all-depth” fishery, is open from May 9, 2013, to (insert dates). The projected catch for this season is 120,947 lbs (54.8 mt). If sufficient unharvested catch remains for additional fishing days, the season will re-open. Depending on the amount of unharvested catch available, the potential season re-opening dates will be: (insert dates no later than July 31). If NMFS decides in-season to allow fishing on any of these re-opening dates, notice of the re-opening will be announced on the NMFS hotline (206) 526-6667 or (800) 662-9825. No halibut fishing will be allowed on the re-opening dates unless the date is announced on the NMFS hotline.

(C) If sufficient unharvested catch remains, the third season (summer season), which is for the “all-depth” fishery, will be open from August 2, 2013 to (insert dates) or until the combined spring season and summer season quotas in the area between Cape Falcon and Humbug Mountain, OR, totaling 191,979 lbs (87.8 mt), are estimated to have been taken and the area is closed by the Commission, or October 31, whichever is earlier. NMFS will announce on the NMFS hotline in July whether the fishery will re-open for the summer season in August. No halibut fishing will be allowed in the summer season fishery unless the dates are announced on the NMFS hotline. Additional fishing days may be opened if sufficient quota remains after the last day of the first scheduled open period (insert date following establishment of season dates). If, after this date, an amount greater than or equal to 60,000 lb (27.2 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, the fishery may re-open every Friday and Saturday, beginning (insert dates of next possible open period as established preseason), and ending October 31. If after September 2, an amount greater than or equal to 30,000 lb (13.6 mt) remains in the combined all-depth and inside 40-fm (73-m) quota, and the fishery is not already open every Friday and Saturday, the fishery may re-open every Friday and Saturday, beginning September 6 and 7, and ending October 31. After September 2, the bag limit may be increased to two fish of any size per person, per day. NMFS will announce on the NMFS hotline whether the summer all-depth fishery will be open on such additional fishing days, what days the fishery will be open and what the bag limit is.

(ii) The daily bag limit is one halibut of any size per day per person, unless otherwise specified. NMFS will announce on the NMFS hotline any bag limit changes.

(iii) During days open to all-depth halibut fishing, no Pacific Coast groundfish may be taken and retained, possessed or landed, except sablefish and Pacific cod, when allowed by Pacific Coast groundfish regulations, if halibut are on board the vessel.

(iv) When the all-depth halibut fishery is closed and halibut fishing is permitted only shoreward of a boundary line approximating the 40-fm (73-m) depth contour, halibut possession and retention by vessels operating seaward of a boundary line approximating the 40-fm (73-m) depth contour is prohibited.

(v) Recreational fishing for groundfish and halibut is prohibited within the Stonewall Bank YRCA. It is unlawful for recreational fishing vessels to take and retain, possess, or land halibut taken with recreational gear within the Stonewall Bank YRCA. A vessel fishing in the Stonewall Bank YRCA may not possess any halibut. Recreational vessels may transit through the Stonewall Bank YRCA with or without halibut on board. The Stonewall Bank YRCA is an area off central Oregon, near Stonewall Bank, intended to protect yelloweye rockfish. The Stonewall Bank YRCA is defined at §660.70(f).

(f) The area south of Humbug Mountain, Oregon (42°40.50' N. lat.) and off the California coast is not managed in-season relative to its quota. This area is managed on a season that is projected to result in a catch of 6,063 lbs (2.75 mt).

(i) The fishing season will commence on May 1 and continue 7 days a week until October 31.

(ii) The daily bag limit is one halibut of any size per day per person.

Classification

Regulations governing the U.S. fisheries for Pacific halibut are developed by the IPHC, the Pacific Fishery Management Council, the North Pacific Fishery Management Council

(Council), and the Secretary of Commerce. Section 5 of the Northern Pacific Halibut Act of 1982 (Halibut Act, 16 U.S.C. 773c) provides the Secretary of Commerce with the general responsibility to carry out the Convention between Canada and the United States for the management of Pacific halibut, including the authority to adopt regulations as may be necessary to carry out the purposes and objectives of the Convention and Halibut Act. This proposed rule is consistent with the Secretary of Commerce's authority under the Halibut Act.

This action has been determined to be not significant for purposes of Executive Order 12866.

NMFS has prepared an RIR/IRFA on the proposed changes to the Plan and the annual domestic Area 2A halibut management measures. Copies of these documents are available from NMFS (see ADDRESSES). NMFS prepared an IRFA that describes the economic impact this proposed rule, if adopted, would have on small entities. A description of the action, why it is being considered, and the legal basis for this action are contained at the beginning of this section in the preamble and in the SUMMARY section of the preamble. The IRFA is available from NMFS (see ADDRESSES). A summary of the IRFA follows:

A fish-harvesting business is considered a "small" business by the Small Business Administration (SBA) if it has annual receipts not in excess of \$4.0 million. For related fish-processing businesses, a small business is one that employs 500 or fewer persons. For wholesale businesses, a small business is one that employs not more than 100 people. For marinas and charter/party boats, a small business is one with annual receipts not in excess of \$6.5 million. All of the businesses that would be affected by this action are considered small businesses under Small Business Administration guidance.

In 2012, 604 vessels were issued IPHC licenses to retain halibut. IPHC issues licenses

for: the directed commercial fishery in Area 2A (147 licenses in 2012); incidental halibut caught in the salmon troll fishery (316 licenses in 2012); and the charterboat fleet (141 licenses in 2012). No vessel may participate in more than one of these three fisheries per year. However, only 227 of the commercial licensed vessels landed halibut in 2012 according to PacFIN. A similar situation may occur for charterboat vessels. The number of charter boats in Northern California, Oregon, and Washington that were involved in groundfish trips including halibut during 2010 was 161. Of these, 89 vessels fished in either the Columbia River or Central Oregon fisheries. This suggests that 60 percent of the IPHC charterboat license holders may be affected by these regulations.

The IRFA analyzed the impacts of the changes to the Plan and regulations. The following are the Council's proposed changes to the Plan::

1. In the Plan, sections (e)(1) and (e)(1)(iii), incidental halibut catch in the salmon troll fishery, adjust the months for the incidental take fishery from May-June to April-June. The goals of these changes are to allow salmon fishers access to the incidental halibut allocation earlier in the year.
2. In the Plan, section (f)(1)(iv) Columbia River subarea, adjust the spring season schedule from Thursday-Saturdays to Fridays-Sundays and remove the automatic regulatory closure for the spring fishery. The goal of the days of the week change is to allow better access to the spring fishery and to make the spring and summer season open days consistent. The goal of removing the regulatory closure is to allow the spring fishery to stay open longer when effort is higher. The summer season has often underutilized the allocation, therefore allowing the spring fishery to stay open longer is designed to better utilize the allocation for the whole subarea. Since 2008 the summer fishery has harvested

less than 20 percent of the subarea quota even though the allocation was 30 percent, leaving a portion of the allocation unharvested that could be harvested in the spring since the summer fishery occurs after the spring fishery.

3. In the Plan, section (f)(1)(v), Oregon Central Coast subarea, several changes are proposed. This subarea consists of three fisheries, nearshore, spring and, summer. Changes are proposed to all three fisheries. The goal is to better align the allocations for the nearshore and spring fisheries with recent increasing effort. The proposed changes to each fisheries allocation changes the allocations from fixed percentages to amounts based on the 2A TAC. This change is proposed to maximize the number of days the entire subarea can be open. The effort in the nearshore fishery has increased in recent years requiring the fishery to close early. Therefore eliminating the summer fishery and increasing the nearshore and spring allocations will allow more fishing days overall. The elimination of the summer fishery below 700,000 lbs is necessary because if the 2A TAC is at that level the resulting summer fishery allocation is not enough to allow one day of fishing.
 - a. For the nearshore fishery, adjust the open days from daily to 3 days per week Thursday –Saturday and adjust the allocation to this fishery from 12 percent of the subarea quota to 12 percent of the subarea quota if the 2A TAC is above 700,000 lbs or greater and 25 percent of the subarea quota if the 2A TAC is less than 700,000 lbs.
 - b. For the spring fishery, adjust the allocation from 63 percent of the subarea allocation to 63 percent of the subarea quota if the 2A TAC is above 700,000 lbs or greater and 75 percent of the subarea quota if the 2A TAC is less than 700,000

lbs. Also, adjust the closure date for this fishery if the TAC is less than 700,000 lbs from July 31st to October 31st or attainment of the fishery allocation.

- c. For the summer fishery, adjust the allocation from 25 percent of the subarea allocation to 25 percent of the subarea quota if the 2A TAC is above 700,000 lbs or greater and 0 percent of the subarea quota if the 2A TAC is less than 700,000 lbs. This closes the summer fishery if the TAC is less than 700,000 lbs.

As mentioned in the preamble, WDFW and ODFW held public meetings and crafted alternative changes to the Plan to adjust management of the sport halibut fisheries in their states to maximize angler participation given the TAC. The states then narrowed the alternatives under consideration and brought the resulting subset of alternatives to the Council at the Council's September and November 2012 meetings. The range of alternatives that were rejected includes alternate fishery structures, such as opening the sport fisheries on different days of the week than the final preferred alternative. Generally, by the time the alternatives reach the Council, because they have been through the state public review process, there is not a large number of alternatives. Rather, the range of alternatives has generally been reduced to the proposed action and the status quo. However, the Council and the States still considered a range of alternatives that could have similarly improved angler enjoyment of participation in the fisheries while simultaneously protecting halibut and co-occurring groundfish species from overharvest. In 2010, 202 non-trawl vessels landed 1.6 million lbs of Pacific halibut and earned \$6.5 million in ex-vessel revenues from prices that averaged just over \$4.00 per pound. In 2011, the non-tribal commercial fleet (excluding trawlers), landed about 1.1 million lbs, earning \$6.0 million in ex-vessel revenues, from prices that averaged \$5.30 per pound. Preliminary data, complete through November of 2012, shows 234 vessels landing 1.0 million lbs, earning \$5.0 million in ex-vessel

revenues, and an average price of \$4.70 per pound. Total ex-vessel revenues including tribal revenues were \$7.8 million in 2010, \$8.0 million in 2011, and through November 2012, \$7.0 million.

The Pacific Fishery Management Council analyzed 2006-2010 recreational activity. (See discussion under 3.2.1.4 Recreational Fisheries-Final Environmental Impact Statement (FEIS) for Proposed Harvest Specifications and Management Measures for the 2013-2014 Pacific Coast Groundfish Fishery and Amendment 21-2 to the Pacific Coast Fishery Management Plan). The data that underlie the Council's analysis indicates that the years, the total number of directed charter and private halibut trips has ranged from 19,000 (2009) to 26,000 trips (2007&2008). (This data are trips are based on recreational activity from Northern California to the Canadian border.) Anglers also take halibut in conjunction with salmon and bottomfish recreational trips. Over the 2006-2010 period, the total number of directed and private recreational trips including directed halibut trips has ranged from 216,000 trips (2008) to 354,000 trips (2009). Over these years, directed halibut trips had averaged about 8% of all trips, but have been as high as 12% in 2008 when there was a significant decline in salmon trips. In 2010, charterboat vessels undertook about 5500 directed halibut trips. The highest charterboat rate found on the internet was \$285 per angler trip. Using this rate suggests that charterboat halibut rate revenues were on the order of \$1.6 million. This estimate does not include revenues associated with halibut caught in conjunction with salmon, bottomfish, or other recreational trips.

The FEIS provides information to project amount of economic impact generated from halibut fisheries. Estimates of groundfish revenues and recreational trips can be related to personal income projections. Based these relationships, \$8 million in halibut ex-vessel revenues and 26,000 in recreational trips lead to an estimate of \$14 million in personal income. Personal

income is considered a key indicator of economic activity, and is used in economic analysis to evaluate distributional effects on local and regional economies associated with changes in regulations. Income impacts include the amount of employee salaries and benefits, business owner (proprietor) income, and property-related income (rents, dividends, interest, royalties, etc.) that result from commercial fishing and recreational expenditures. The proposed changes to the Plan and regulations do not include any reporting or recordkeeping requirements. These changes will not duplicate, overlap or conflict with other laws or regulations. These changes to the Plan and annual domestic Area 2A halibut management measures are not expected to meet any of the RFA tests of having a "significant" economic impact on a "substantial number" of small entities because the changes will not affect overall allocations. They are designed to provide the best fishing opportunities within the overall TAC. The major effect of halibut management on small entities will be from the internationally set TAC decisions made by IPHC. Based on the recommendations of the states, the Council and NMFS propose minor changes to the Plan to provide increased recreational and commercial opportunities under the allocations that result from the TAC. There are no large entities involved in the halibut fisheries; therefore, none of these changes will have a disproportionate negative effect on small entities versus large entities. Based on the economic dimensions of the fishery, these minor proposed changes to the Plan are not expected to have a significant economic impact on a substantial number of small entities. Nonetheless, NMFS has prepared an IRFA. Because the goal of the proposed action is to maximize angler participation, and thus to maximize the economic benefits of the fishery, and the action is not expected to have a significant economic impact, NMFS did not analyze alternatives other than the proposed changes and the status quo for purposes of the IRFA. Through this proposed rule, NMFS requests comments on this conclusion.

Pursuant to Executive Order 13175, the Secretary recognizes the sovereign status and co-manager role of Indian tribes over shared Federal and tribal fishery resources. Section 302(b)(5) of the Magnuson-Stevens Fishery Conservation and Management Act establishes a seat on the Pacific Council for a representative of an Indian tribe with federally recognized fishing rights from California, Oregon, Washington, or Idaho.

The U.S. Government formally recognizes that 13 Washington Tribes have treaty rights to fish for Pacific halibut. In general terms, the quantification of those rights is 50 percent of the harvestable surplus of Pacific halibut available in the tribes' usual and accustomed (U and A) fishing areas. Under the Plan, the tribal fishery is allocated a percentage of the Area 2A TAC. Tribal fishing areas for purposes of the halibut fishery are described at 50 CFR 300.64. Each of the treaty tribes has the discretion to administer their fisheries and to establish their own policies to achieve program objectives. Accordingly, tribal allocations and regulations, including the proposed changes to the Plan, have been developed in consultation with the affected tribe(s) and, insofar as possible, with tribal consensus.

NMFS NWR initiated consultation on the halibut fishery under Section 7 of the Endangered Species Act (ESA) following the listing of yelloweye, canary, and bocaccio rockfish of the Puget Sound/Georgia Basin. Area 2A partially overlaps with the Distinct Population Segments (DPSs) for listed rockfish. At this time the consultation is not completed. NMFS has prepared a 7(a)(2)/7(d) determination memo under the (ESA) finding that bycatch in the 2013 fishery is not likely to result in a significant impact on listed species, that direct effects of the fishery (e.g. direct takes) are not likely to jeopardize the continued existence of any listed species, and that in no way will the 2013 fishery make an irreversible or irretrievable commitment of resources by the agency.

Authority: 16 U.S.C. 773 et seq.

Dated: February 4, 2013

Alan D. Risenhoover,
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performing the functions and duties of the
Deputy Assistant Administrator for Regulatory Programs,
National Marine Fisheries Service.

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